

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 70 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
2 to 5 No

BHADRAKUMAR JAMNADAS SAVJANI

Versus

STATE OF GUJARAT

Appearance:

MR BS PATEL for Petitioner
MRS BR GAJJAR, APP for Respondent No. 1
MR JB PARDIWALA for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 06/05/98

ORAL JUDGEMENT

Heard learned Advocate Mr. B.S. Patel for petitioner. Rule. Learned APP Mrs. B.R. Gajjar waives service of rule on behalf of respondent No.1 and Mr. J.B. Pardiwala waives service of rule on behalf of respondent No.2.

2. The petitioner has challenged the legality,

validity and propriety of the order passed by learned JMFC, Navasari, in the matter of Criminal Case No. 8270 of 1996 issuing non-bailable warrant against the petitioner on account of his absence on the notified day of the said matter. It is the case of the petitioner that petitioner has been suffering from Chronic Kidney failure, and as a result, the petitioner had to undergo a major operation. That on account of certain complications, the petitioner is confined to bed. Further more, it is the case of the petitioner that petitioner was not served with summons of the said case and thereby petitioner did not remain present. However, learned JMFC has issued non-bailable warrant against him. That in view of ailment of the petitioner, the order is not only illegal, without any jurisdiction, but too harsh and thereby improper.

3. Mr. Pardiwala, learned Advocate appearing on behalf of respondent No.2 has contended that material produced on record on behalf of the petitioner is insufficient to infer the extent of the ailment of the petitioner to show that petitioner cannot attend the court. However, Mr.Pardiwala has fairly stated that petitioner should be put to certain strict conditions.

4. In the facts and circumstances of the case, it would be just and proper if the non-bailable warrant issued against the present petitioner is converted into a bailable warrant for Rs. 5,000/- (Rupees five thousand only) against the petitioner and petitioner be directed to appear through Advocate before the court of JMFC, Navasari in the Criminal case No. 8270 of 1996 on the next day fixed. The petitioner shall make an application for exemption before the learned JMFC, Navasari on the basis of appropriate certificate including the prayer for recording the plea of the petitioner to the advocate.

5. On the basis of above stated discussion, no further orders are required. Hence order accordingly. Rule is made absolute. No order as to costs.

p.n.nair